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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,026	01/22/2004	Douglas Anthony Able	2003-0821.01	6511
21972	7590	03/23/2006	EXAMINER	
LEXMARK INTERNATIONAL, INC. INTELLECTUAL PROPERTY LAW DEPARTMENT 740 WEST NEW CIRCLE ROAD BLDG. 082-1 LEXINGTON, KY 40550-0999			PHAM, HAI CHI	
		ART UNIT		PAPER NUMBER
		2861		
DATE MAILED: 03/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/763,026	ABLE ET AL.	
	Examiner	Art Unit	
	Hai C. Pham	2861	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 07 May 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 01/22/04.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Specification***

1. The disclosure is objected to because of the following informalities:

- Page 6, line 14, "counter 70" should read --counter 72--.

Appropriate correction is required. Applicants' cooperation in reviewing the Specification to find any other typographical errors is appreciated.

### ***Claim Objections***

2. Claims 5-9 are objected to because of the following informalities:

#### **Claim 5:**

- Line 3, "and" should read --or-- since the imaging device can only have either one of the two defaults (see Specification, page 2, lines 10-12);

#### **Claim 6:**

- Similarly at line 3, "and" should read --or--.

#### **Claim 7:**

- Line 3, "and" should read --or--.

#### **Claim 8:**

- Line 3, "and" should read --or--.

#### **Claim 9:**

- Lines 3-4, "at the end or printing" should read --at the end of printing--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yajima et al. (U.S. 6,240,264) in view of Dunlap (PGPub. No. U.S. 2002/0181013).

Yajima et al. discloses an image forming apparatus capable of printing at a low speed and at a high speed, the apparatus having electronic control to efficiently process the print job for forming an image at low-speed recording prior to process the print job for forming an image at high-speed recording (col. 16, lines 36-43).

Yajima et al. fails to teach the switch from the low or intermediate speed recording to the high-speed recording being based on the determined number of sheets to be printed.

Dunlap teaches a printing controller system (20) for determining a number of pages of a print job (14) so as to select a printer for printing the print job and when the number of pages is greater than a predetermined number, the printing of the print job is switched to a printer having a high-speed recording capability (paragraph [0047]). It is also clear that the predetermined number of pages has to be more than one.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to switch the recording speed between a low and a high

speed in the device of Yajima et al. based on the determined number of pages of the print job as taught by Dunlap. The motivation for doing so would have been to efficiently speed the recording of the image for high volume print jobs.

Yajima et al. further teaches:

- said imaging device employs a rotating scan mirror (polygon mirror 240) to scan light over a photoconductor to create an electrostatic image and said scan mirror is rotated at a speed less than the speed for said printing at intermediate speed during standby periods between print jobs (during the warming period or stand-by state, the number of revolutions of the polygon mirror is increased to reach a level of the image forming mode that can be either a monochrome mode where the recording speed is low or a color mode where the recording speed is high) (col. 13, lines 39-46);
- said imaging device may be set to a first default status which prints jobs at said intermediate speed for jobs for which the number of pages of the job is undetermined or may be set to a second default status which prints jobs at said high speed for jobs for which the number of pages of the job is undetermined (the standard mode being either a monochrome mode where the recording speed is low or a color mode where the recording speed is high) (col. 9, lines 1-5);
- said electronic control continues printing of a first print job being printed at intermediate speed and changes to high speed printing for a second print job

received when first print job is being printed at the end of printing of said first print job at intermediate speed (see Fig. 9b).

With regard to claim 18, Yajima et al., as modified by Dunlap, discloses the claimed invention except for the predetermined number of sheets being three. It would have been obvious to one having ordinary skill in the art at the time the invention was made to set the threshold number of sheets at three, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

#### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai C. Pham whose telephone number is (571) 272-2260. The examiner can normally be reached on M-F 8:30AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen D. Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



HAI PHAM  
PRIMARY EXAMINER

March 17, 2006